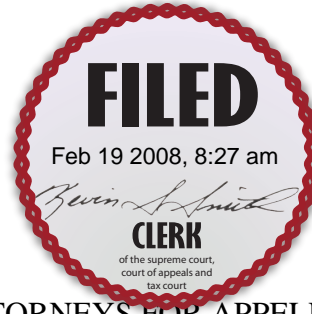


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

| | | |
|----------------------|---|-----------------------|
| H.M., |) | |
| |) | |
| Appellant-Defendant, |) | |
| |) | |
| vs. |) | No. 49A02-0707-JV-576 |
| |) | |
| STATE OF INDIANA, |) | |
| |) | |
| Appellee-Plaintiff. |) | |

APPEAL FROM THE MARION SUPERIOR COURT – JUVENILE DIVISION
The Honorable Geoffrey Gaither, Magistrate
Cause Nos. 49D09-0612-JD-004789 & 49D09-0702-JD-000403

February 19, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

VAIDIK, Judge

This matter comes to us on appeal from two dispositional orders adjudicating then-fifteen-year-old H.M. to be a delinquent child for committing various offenses that would constitute felonies and misdemeanors if committed by an adult. The orders included in the record reflect that they were signed by the magistrate presiding over the cases. The dockets indicate that the orders were approved on June 8, 2007. However, there is no indication as to how these approvals were accomplished.

The authority of magistrates to act is determined by statute. *See* Ind. Code § 33-23-5-5. Pursuant to Indiana Code §§ 33-23-5-5(14) and 33-23-5-9(b), a magistrate presiding at a criminal trial may enter a final order, conduct a sentencing hearing, and impose a sentence upon a person convicted of a criminal offense. However, juvenile proceedings, including delinquency adjudications, are civil in nature rather than criminal, *Bible v. State*, 253 Ind. 373, 254 N.E.2d 319, 322 (1970); *J.V. v. State*, 766 N.E.2d 412, 414 (Ind. Ct. App. 2002), *trans. denied*, and therefore do not fall within the purview of Indiana Code §§ 33-23-5-5(14) and 33-23-5-9(b). Where a magistrate presides over a matter other than a criminal trial, the magistrate “does not have the power of judicial mandate” and “may not enter a final appealable order unless sitting as a judge pro tempore or a special judge.” Ind. Code § 33-23-5-8. Thus, except in criminal proceedings, a magistrate “shall report findings” in an evidentiary hearing or a trial, and “the court shall enter the final order.” Ind. Code § 33-23-5-9(a). Because the record does not establish judicial approval of the magistrate’s findings in this case, we remand to the

juvenile court for its consideration and further action consistent with this opinion. We retain jurisdiction of this appeal pending action by the juvenile court.

SHARPNACK, J., and BARNES, J., concur.